IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

Crl.Rev.Pet.No.141 of 1999(C)

CRL.A.142/1996 OF THE COURT OF THE ADDITIONAL SESSIONS JUDGE, THODUPUZHA.

C.C.112/1992 OF THE COURT OF THE JUDICIAL MAGISTRATE OF THE FIRST CLASS-I, THODUPUZHA

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PETITIONER/APPELLANT/2ND ACCUSED:-

JOSEPH, S/O.JOSEPH, MALAPRAVANAL VEEDU,
THANKAMONY VILLAGE, UDUMBANCHOLA TALUK, IDUKKI.

BY ADV. SRI.M.K.CHANDRA MOHANDAS
SRI.C.S.MANILAL

RESPONDENTS/RESPONDENT/COMPLAINANT:-

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1. THE STATE OF KERALA,
   REPRESENTED BY THE PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. THE FOREST RANGE OFFICER,
   MULLARINGADU RANGE.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 13/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

V.K.Bali,C.J.

Crl.R.P.No.141 of 1999-C

Dated, this the 13th day of December, 2006

ORDER

V.K.Bali, C.J. (Oral)

The petitioner, along with his co-accused, was tried for offences under Sections 27(1)(c)(1)(e) and 27(2)(c) of the Kerala Forest Act, hereinafter referred to as 'the Act'. Vide order dated 3rd June, 1996 passed by the Judicial Magistrate of the First Class-I, Thodupuzha, the petitioner has been held guilty under Section 27(1)(c), 27(1)(e) and 27(2)(c) of the Act and acquitted his co-accused. The petitioner has been sentenced to undergo rigorous imprisonment for one year under Section 27(1)(c) and to pay a fine of Rs.1,000/-, one year under Section 27(1)(e) and six months under Section 27(2)(c) of the Act. On appeal even though the conviction of the petitioner under Sections 27(1)(e) and 27(2)(c) of the Act was maintained, he was found not guilty under Section 27(1)(c). The sentence was also reduced to simple imprisonment for three months under Section 27(1)(e) and simple imprisonment for one month under Section 27(2)(c) of the Act, as would be clear from the order dated 16th September, 1998 passed by the Additional Sessions Judge, Thodupuzha. It is

against these two orders that the present revision has been filed by 2nd accused.

2. The allegation against the petitioner was that on 15.6.1990 and within one week prior to that the accused trespassed into the reserve forest at Padikakam bhagam within the Thodupuzha Reserve by clearing the reserve tried to cultivate ganja plants and erected shed there and by their act, the Government sustained a loss of Rs.1,000/-.

3. Without joining issues on the merits of the case, learned counsel for the petitioner contends that the occurrence pertains to the year 1990 and in the manner aforesaid, the petitioner has suffered a protracted trial spanned over a period of more than 16 years and, therefore, the petitioner may not be sent to serve a jail term at this stage.

4. This Court finds considerable merit in the contention of the learned counsel as made above and is of the view that ends of justice would be served if the petitioner, instead of serving a jail term, be asked to pay fine. In the circumstances of the case, thus, the Court orders that the petitioner would pay a fine of Rs.2,000/= (Rupees two thousand only) within two

months from today and would not serve the jail term at this stage. In case fine is not paid, the petitioner would serve the sentence recorded by Additional Sessions Judge, Thodupuzha.

The Criminal Revision Petition is disposed of as indicated above.

V.K.Bali
Chief Justice

vku/-